

REPORT DOCUMENTATION PAGE				Form Approved OMB No. 0704-0188	
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1. REPORT DATE (DD-MM-YYYY) 17 May 2006		2. REPORT TYPE FINAL		3. DATES COVERED (From - To)	
4. TITLE AND SUBTITLE Legitimacy as a guiding principle should be measured during all phases of operations to determine the degree of operational objective accomplishment in the Global War on Terror.				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)  LtCol Daniel J. Daugherty, USMC  Paper Advisor (if Any): Professor W.M. Calhoun				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)  Joint Military Operations Department Naval War College 686 Cushing Road Newport, RI 02841-1207				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION / AVAILABILITY STATEMENT Distribution Statement A: Approved for public release; Distribution is unlimited.					
13. SUPPLEMENTARY NOTES A paper submitted to the faculty of the NWC in partial satisfaction of the requirements of the JMO Department. The contents of this paper reflect my own personal views and are not necessarily endorsed by the NWC or the Department of the Navy.					
14. ABSTRACT  From the days of Roman conquest through the U.S. Marshal Plan, legitimacy was a principle that directed actions and operations. This paper defines what legitimacy means to U.S. Military operations today, and its applicability to operational planning. It explains the impact legitimacy can have on public opinion and provides a rudimentary understanding of how legitimacy considerations become a significant factor in fighting the GWOT. Finally, the paper draws conclusions concerning the failure to include legitimacy as a principle in planning operations.					
15. SUBJECT TERMS LEGITIMACY GWOT, Measures of Effectiveness and Measures of Performance					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES  24	19a. NAME OF RESPONSIBLE PERSON Chairman, JMO Dept
a. REPORT UNCLASSIFIED	b. ABSTRACT UNCLASSIFIED	c. THIS PAGE UNCLASSIFIED			19b. TELEPHONE NUMBER (include area code)  401-841-3556

NAVAL WAR COLLEGE  
Newport, R.I.



**JMO PAPER**

Legitimacy as a guiding principle should be measured during all phases of operations to determine the degree of operational objective accomplishment in the Global War on Terror.

By

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations. The contents of this paper reflect my personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Signature:

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17 May 2006

## **Abstract**

From the days of Roman conquest through the U.S. Marshal Plan, legitimacy was a principle that directed actions and operations. This paper defines what legitimacy means to U.S. Military operations today, and its applicability to operational planning. It explains the impact legitimacy can have on public opinion and provides a rudimentary understanding of how legitimacy considerations become a significant factor in fighting the GWOT. Finally, the paper draws conclusions concerning the failure to include legitimacy as a principle in planning operations.

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## **INTRODUCTION**

From the days of Roman conquest through British imperialism and the U.S. Marshal Plan, governments achieved legitimacy by securing the peace, building an impartial justice system, improving the economic infrastructure, and having a moral objective.<sup>1</sup> In the Global War on Terror (GWOT), legitimacy needs to be measured during all phases of operations to determine the degree of operational objective accomplishment. Today, the center of gravity in the GWOT is seen as the hearts and minds of the uncommitted.<sup>2</sup> If we are to win their hearts and minds, they must believe U.S. actions, operations, and goals are legitimate.

## **BACKGROUND**

If the past predicts the future, the GWOT will put the U.S. military into every corner of the world. In the 20<sup>th</sup> Century alone, there were over 60 small wars and contingencies in which the U.S. was involved.<sup>3</sup> In the GWOT, there is no single geographic region or even a conventionally targetable terrorist nation or organization to fight and defeat; the enemy is everywhere and yet nowhere. These facts foreshadow Combatant Commanders fighting the GWOT in every area of responsibility (AOR).

Over the last 230 years, America has built legitimacy upon four interrelated policies: adherence to law, consensus-building, moderate policies, and commitment to moral objectives.<sup>4</sup> These elements have helped shaped the world's view or perception of American actions.

History has shown the key to success in counter-terrorist or anti-insurgency operations is "winning the hearts and minds of the people."<sup>5</sup> John Adams, one of America's founding fathers, believed the American Revolution was not won on the battlefield, but in the "hearts and minds" of the colonists.<sup>6</sup> The British were seen as brutal, used mercenaries, oppressive, unlawful and thus not the legitimate government of the people of the colonies.

American experiences in the Banana Wars, Haiti, Vietnam, and Iraq, have shown that winning against insurgents depends heavily on legitimacy. In 1916, American forces entered the Dominican Republic to begin an eight-year fight against insurgents.<sup>7</sup> The Marines were ruthless in their operations and abuses ranged from major atrocities (murders) to minor banditry and racism.<sup>8</sup> The burning of private homes and possessions became common and the abuses only created more insurgents. However, as the military focused on the elements of infrastructure, justice, increased security, and built a

disciplined and effective constabulary, the people saw the new way of life as legitimate. After many lessons learned in the Caribbean, in 1940, the U.S. Marine Corps published the Small Wars Manual, incorporating the elements of legitimacy into all operational plans for insurgencies. The Manual stressed the fundamentals of legitimacy; adherence to the law, incorporation of the political authorities, a fair approach in all policies including local culture, and the attaining of moral ascendancy over the enemy.<sup>9</sup>

Forty years after the Dominican Republic, the Marines in South Vietnam, utilizing the Small Wars Manual, achieved numerous operational successes. The Civic Action Platoons (CAP) followed the Manual and focused on the local populace. The Marines adhered to the law, respected the people, and included them in all decisions. They kept fair policies, and that proved to the citizens they were the legitimate authority. However, CAP was only employed in Marine sectors. The success of CAP never extended out of the Marine AOR because other forces did not understand that legitimacy drove support for the war in both South Vietnam and the United States.

Almost thirty years after Vietnam, the Marine Corps' 3d Battalion, 6<sup>th</sup> Marines, was in Al Qaim, Iraq on the Syrian

border.<sup>10</sup> The battalion moved in during August 2005. The previous battalion was holed-up inside base camps with almost no local presence. The camps were in Husaybah, where the Euphrates River crosses from Syria into Iraq. The 3/6 Marines planned and conducted two major operations to clear the area of insurgents who had infested the AO over the previous year. This enabled the Marines to move into the villages and provide security. The Marines set up over a dozen "imbedded" positions (some only squad size) across the AO. The plan included the Marines living, sleeping, and working in the towns with the locals. These actions showed that the Marines were dedicated to the people. The Marines operated with an Iraqi Army division and everything was a combined operation. By operating with the Iraqi Army, the Marines showed their respect for Iraqis. All operations were coupled with local security, civic action projects, and civil affairs efforts at rebuilding the local government and a police force. These actions showed the population that the Marines respected the law and the local government, were concerned about the local economy and the morality of their actions.<sup>11</sup>

Two measures of effectiveness/success in the Marine Operations were the October and December 2005 elections. In the January 2005 elections, when the interim government was



voted upon, not a single vote had been cast in the AO. In October, shortly after Iron Fist, about 500 votes were cast in the constitutional referendum. In December 2005, over 23,000 votes were cast in the election of officials for the Iraqi Government. The combined efforts of military forces that adhered to the law, built consensus among the people, maintained moderate policies, and were committed to the moral objective of establishing a legitimately elected government came to fruition. Considering that the Marines and Iraqi Army were in a predominantly Sunni area, the results were grand.<sup>12</sup>

Even after the historical recognition of legitimacy as a governing principle required to fight insurgents, it was not incorporated into the bedrock of U.S. military doctrine. Joint Publication 3-0, Appendix A, published on 10 September 2001 lists the nine principles of war as: (1) Objective, (2) Offensive, (3) Mass, (4) Economy of Force, (5) Maneuver, (6) Unity of Command, (7) Security, (8) Surprise, and (9) Simplicity, there is no mention of legitimacy. It is only in JP 3-07; Military Operations Other Than War (MOOTW) that legitimacy is included as principle.<sup>13</sup> JP 3-0 is under revision and the proposed draft version will include legitimacy as a principle of war.

To understand legitimacy we must define it. As seen

above, legitimacy comes from several elements; these include law, consensus building, moderation, and morality. Webster's II New College English Dictionary defines legitimacy as: being in compliance with the law, being in accordance with established standards, based on logical reasoning, and not spurious. The U.S. military definition in Joint Publication (JP) 3-07, Joint Doctrine for Military Operations Other Than War, defines legitimacy as; "A condition based on the perception by a specific audience of the legality, morality, or rightness of a set of actions." Parsing the JP 3-07 definition, legitimacy is a belief by a specific audience, drawn from observations of military actions, that is transient in nature. That is, legitimacy is something that can both be attained and/or lost.

#### **DISCUSSION / ANALYSIS**

The U.S. military fights to win the GWOT through military operations that aim to solve multidimensional problems around the globe. From the Balkans to Haiti, to Afghanistan, the Philippine Islands, and throughout Iraq, the U.S. military is operating in nations with varied and opposing religions and cultures.<sup>14</sup> In recent history, the U.S. fought Vietnam as three wars, the first, an internal conflict between the North and South for political power. Second was the regional war

within Asia, and the third was as one of many battles in the Cold War. In comparison to Vietnam, it is in this type of complexity that the GWOT is being conducted. Afghanistan was fought as the fight against the Taliban, the prime supporter of Al Qaeda. Iraq began as the battle against those with weapons of mass destruction who would supply them worldwide. Now, the insurgency in Iraq is fought within the struggle between radical Islam and the West and political control. In this environment, focusing upon legitimacy can help keep operations lawful, moderate, maintaining our moral ascendancy, and thus contrasting the insurgents for what they are.

By including legitimacy in the planning considerations and measuring it, the operational commander can gauge how his operations are either contributing to legitimacy and thereby winning hearts and minds, or losing them. By asking how each operation is perceived in the heart of the target populace, the commander can plan, coordinate, and adjust tasks needed to achieve legitimacy. While the operational commander must be free to conduct the military operations to provide security and stability, in the GWOT security operations must be geared to win the hearts and minds of the people in the AOR.

Having reviewed the history, elements, and definitions of legitimacy, we turn to why it must be included in planning and

also then measured. With the GWOT being fought on the world stage; the populace includes the people in the AOR, the American public, and the world. With global media coverage, military action anywhere affects the attitudes of people everywhere. In the U.S., public opinion provides the political support for defense spending and recruiting. Internationally, the positive perception of legitimacy provides the U.S. with allies, basing options, and logistics. Conversely, a negative perception provides the terrorists with support, recruits, and arguments for attacking America. If we are ever to reduce the support and recruitment base for terrorists, legitimacy must be included in planning and measured at all phases of operations.

JP 3-07, recognizes the impact legitimacy can have, it states; "If an operation is perceived as legitimate, there is a strong impulse to support the action. If an operation is not perceived as legitimate, the actions may not be supported and may be actively resisted."<sup>15</sup> Logic dictates that to win the people through military operations, they must conclude the operations to be legitimate. To achieve this conclusion the people must see that U.S. forces follow the law, that they have a moral basis, are fair, and the actions taken are the right thing.

The Joint Staff, J5 has embraced legitimacy in the conduct of operation and in the program for Countering Ideological Support for Terrorism (CIST). The J5 has stated that the key to CIST is "convincing populations that terrorism is not a legitimate means to achieve political goals."<sup>16</sup> Further, the J5 has recognized that the most important contribution military forces can make is how they conduct of operations.<sup>17</sup> The J5 stresses for the conduct of operations; restraint, culture, the appropriate means other than kinetic, and when kinetic are required, building in measures to offset negative effects.

With legitimacy defined as "a condition based on the perception by a specific audience..." The JTF commander can use Public Affairs operations to inform the populace of the reasons for, and the objectives of operations. However, the perception of legitimacy will still depend on the people in the AOR and their reaction. An example highlights this point. When the Iraq people danced on the fallen statue of Saddam Hussein the perception drawn was that the invasion was legitimate, as the Iraqi people hated Saddam.<sup>18</sup>

The fact that legitimacy is based on a perception is clear when you see it in action, i.e. the people rejoicing. The tough questions are how do we measure the perception of

legitimacy and how do we know the actions taken are the ones reflected in the feedback you are getting? Recently, David Kilcullen wrote "Twenty-Eight Articles, Fundamentals of Company-level Counterinsurgency."<sup>19</sup> Mr. Kilcullen, highlighted several issues that affect both public opinion and our perceptions of those opinions when he wrote:

Ask others who come from that country or culture about your ideas. See it through the eyes of a civilian who knows nothing about the military. How would you react if foreigners came to your neighborhood and conducted the operations you planned? What if somebody came to your mother's house and did that?

Throughout all phases of operations these are the issues that are going to form the basis for the determination of legitimacy. These questions must be asked, the answers considered, and utilized in shaping future or follow-on operations. By incorporating legitimacy, we can further mission accomplishment by positively influencing the perception of the populace among which U.S. forces operate.

### **Measures of Effectiveness and Measures of Performance**

Success in the GWOT is heavily dependent on proper assessment tools and measures of progress.<sup>20</sup> Some highly useful tools are; measures of performance (MOPs) that gauge accomplishment of tasks and actions, and measures of effectiveness (MOEs) that determine whether the actions being

executed are having the desired effect toward mission accomplishment: the attainment of end states and objectives. MOPs measure friendly effort and MOEs measure results. MOPs and MOEs for legitimacy must be crafted and refined throughout the planning process.<sup>21</sup>

In measuring legitimacy, the MOPs available are not new capabilities. The continual measurement of public opinion can be done on the internet and/or by telephone through public opinion polls and media coverage analysis. Contractors or public affairs units can conduct these activities on site or in a networked AOR from any location. (Note, even North Korea has over 1.1 million telephones).<sup>22</sup> Inside the AOR, public opinion polls can include both formal and informal polling by local civil affairs units, intelligence assets, or media agencies. One example is the Brookings Institute. Since August 2003, Brookings has surveyed and charted 28 separate issues inside Iraq, many of which drive U.S. and Iraqi perception of the legitimacy and progress of reconstruction. (See enclosure (A)).<sup>23</sup> The Brookings' survey covers everything from U.S. troop fatalities to the percentage of Iraqis optimistic about their future.<sup>24</sup> These types of surveys and time comparisons can show the operational commander the perceptions of the people and the trends that are driving

them.

In addition to the Brookings' items, the MOEs for legitimacy need to include what percentage of the public hold positive opinions on operations recently completed. This would provide immediate feedback on public support. Another could include what percentage of the people believed that more counterinsurgency actions by military forces are needed. This would provide input to future operations. In combined security operations, the MOE could include the increase in the number of people who believe they are safer because of such operations. In media data mining, the MOE could include the percentage of positive media reports compared to the percentage of negative reports. The table below shows possible objectives, the desired effects and how they could be measured throughout the operation.



<b>Operational Objective</b>	<b>Desired Effects</b>	<b>Measure of Performance</b>	<b>Measure of Effectiveness</b>
Combined operations with local forces to clear terrorists from AO	a. Increase security reduce terrorist acts, b. Increase in the belief in local security forces.	Number of Opinion poles conducted  a. Telephone surveys  b. Street surveys	a. Increase local perception of safety b. Increase the perception of the local forces.
Hold election for local representatives	Local populace elects their own government	Number of Opinion poles conducted  Survey on how the populace views the legitimacy of the process.	a. Percentage of increase of voters in elections. b. Percentage of increase in perception of fairness of process.
Elected officials empowered to improve local infrastructure – water, sanitation, etc.	Local people sees that elected government is working for them by improving living conditions	Number of Opinion poles conducted  Survey how the people views the progress of government projects.	Increase in the perception of the populace that the elected government has the power to improve their lives

In using public opinion to gauge the level of legitimacy being attained, there are multitudes of factors that must be taken into account. In a multi-ethnic and multi-religious AOR, multiple polls that are culturally and religiously sensitive will have to be used to obtain an integrated picture representative of the population. This is no different from opinion polls in the U.S. that breakout one religion from another or one ethnic group from another. Admittedly, public

opinion MOE will never be perfect or precise. However, at the strategic level, public opinion can gauge public support in the U.S. and/or in the AOR. At the operational level, public opinion type MOE in this realm can tell the commander if operations are moving in the right direction with the people in the AOR. By probing the (AOR) local opinion, repeatedly, the information gathered can paint the picture needed to estimate and, when possible, shape the public perception. Including legitimacy in the planning considerations and connecting the operational vision with its moral underpinnings, and then measuring how the people view it, should be standard practice. Without such feedback, commanders will not know if they are winning or losing the hearts and minds of the populace in their AOR or back home.

Arguments can be made that in the GWOT, the U.S. was attacked and any retaliation is therefore legitimate in self-defense. Further, achieving legitimacy takes too much time, presence, and far too many resources that would be better spent on homeland security. The U.S. faces an enemy that knows no bounds, follows no law, and will utilize any tactic and/or weapons to destroy the United States. Along this line of thought are those like Robert Kagan, who claim that the U.S. has the right to intervene as it see's fit.<sup>25</sup> Kagan

argues that throughout history it was the circumstances of the times and not U.S. adherence to international law and established norms that gave the United States its legitimacy.

All of the above arguments fail to address the long-term effects of military operations and/or actions taken in self-defense. Creating more terrorists, just to kill a few is counterproductive in the GWOT. Further, self-defense is based upon necessity and proportionality.<sup>26</sup> What these lines of reasoning fail to take into account is that over time U.S. insistence on, and adherence to international law gave our actions consistency and thus, legitimacy. Consistent American actions, adherence to international law and international institutions built the foundation upon which the world then built their own concept of legitimacy. Concisely, our consistent legitimate actions, over time, have shaped the world perceptions that now drive world opinion. Because of these prior "opinion-shaping actions," if we want global support and cooperation in the GWOT, legitimacy must be included and measured to ensure continued support and success.

#### **LESSONS LEARNED**

The Marine Corps Small Wars Manual warns that, "errors may be committed which antagonize the population . . . and all the foreign sympathizers; mistakes may have the most far-

reaching effect and it may require a long period to reestablish confidence, respect, and order."<sup>27</sup> In the GWOT, the U.S. has learned the lesson of failing to include legitimacy in the conduct of intelligence gathering operations. As an example, the perception of torture is a result of failing to include legitimacy in planning and throughout operations. The U.S. signed the Geneva Conventions and approved of numerous international laws that banned torture. When the world saw that soldiers at Abu Ghraib prison had violated the law, and believed that the interrogators at Guantanamo Bay, Cuba, had violated human rights, legitimacy was lost. This loss gave the entire world reason to question not only the soldiers' actions, but also whether or not they want to follow the U.S. lead. This could have been avoided had the operational commanders included legitimacy as a planning consideration, adhered to the law, employed moderate policies, and maintained a commitment to moral principles. Had they done these things and trained to these standards, the operations would have been perceived as legitimate.

All operations in the GWOT are scrutinized by the American public, the residents of the AOR, and the world populace. In the United States, there is a long-standing perception of what justice should look like. This perception

includes many legal rights, written charges, and a speedy and fair trial. At the operational level, the indeterminate detention of the detainees at Guantanamo Bay, when coupled with the failure to bring charges, and the delays in trial, provide the basis for the American public to form the opinion that these operations lack legitimacy.

### **CONCLUSION**

The Romans, the British, the U.S. Marines, and the U.S. Marshal Plan, achieved legitimacy through security, justice, building infrastructure, and moral objectives.<sup>28</sup> Legitimacy is the golden moral thread that can be woven throughout the operations of the GWOT to bind them to the people. Regardless of how many terrorists are killed or imprisoned, the enemy operational strength seemingly is the unlimited pool of people willing to die for a radical cause. By showing the world that U.S. actions are legitimate, we can begin to reduce the pool from which they draw.<sup>29</sup> In short, with legitimacy our efforts shall succeed and endure, without legitimacy our efforts will fail.

## NOTES

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<sup>1</sup> A. J. Sherman, "Viceroy and Indians", The New York Times Book Review, Sunday April 30, 2006, p. 26.

<sup>2</sup> Stephen Biddle, "War Aims and War Termination", an extract from; Defeating Terrorism: Strategic Issue Analyses. U.S. Army War College Strategic Studies Institute January 2002, pp.7-12.

<sup>3</sup> United States Marine Corps, "Small Wars: 21<sup>st</sup> Century" (draft) Washington, D. C.: Department of the Navy, 2004.

<sup>4</sup> Tucker and Hendrickson, "The Sources of American Legitimacy," Foreign Affairs 83 no. 6, November/December 2004. p 18-32.

<sup>5</sup> Stephen Biddle, "War Aims and War Termination", US Army War College, pp 7-12.

<sup>6</sup> Ibid.

<sup>7</sup> Bruce J. Calder, "Caudillos and Gavilleros versus the United States Marines: Guerrilla Insurgency during the Dominican Intervention, 1916-1924," The Hispanic American Historical Review, Vol. 58 No. 4, 1978, pp. 649-675.

<sup>8</sup> Ibid, p 662.

<sup>9</sup> United States Marine Corps, "Small Wars Manual" Washington, D. C., Department of the Navy, 1940, p 1-28.

<sup>10</sup> These sections are drawn from Email and discussions with Captain Richard Hosley, USMCR, Judge Advocate, assigned to 3d Battalion, 6<sup>th</sup> Marine Regiment throughout these operations.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> U.S. Joint Publication 3-07, Chapter II, p. II-5.

<sup>14</sup> Use of the phrase has been traced to a quote of John Adams, an American Revolutionary War patriot, who said that the revolution was won not on the battlefield, but in the "hearts and minds" of the American people. Wikipedia, "Hearts and Minds," <http://en.wikipedia.org> (accessed August 28, 2005).

<sup>15</sup> U.S. Joint Publication 3-07 p. II-5.

<sup>16</sup> Joint Staff J5 CIST briefing, 05 April 2005, original page 47.

<sup>17</sup> Ibid

<sup>18</sup> Winds of Change.NET, A "blog" of public perceptions on the fall of Saddam Hussein, on the web at: [windsofchange.net](http://windsofchange.net), accessed on April 3, 2006.

<sup>19</sup> David Kilcullen, "Twenty-Eight Articles, Fundamentals of Company-level Counterinsurgency," on the web at [http://www.d-n-i.net/fcs/pdf/kilcullen\\_28\\_articles.pdf](http://www.d-n-i.net/fcs/pdf/kilcullen_28_articles.pdf).

<sup>20</sup> Craig Cohen, "Measuring Progress in Stabilization and Reconstruction," United States Institute of Peace,

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Stabilization and Reconstruction Series, No. 1. March 2006, p.1.

<sup>21</sup> Joint Publication 3-13 p. xv.

<sup>22</sup> Library of Congress - Federal Research Division Country Profile: North Korea, May 2005.

<sup>23</sup> Michael E. O'Hanlon, *Senior Fellow*, and Nina Kamp, *Research Assistant*, "The State of Iraq: An Update", *The New York Times*, March 19, 2006.

<sup>24</sup> Ibid.

<sup>25</sup> Robert W. Tucker and David C. Hendrickson, "The Sources of American Legitimacy," *Foreign Affairs*, November/December 2004.

<sup>26</sup> U.S. Standing Rule of Engagement.(SROE)

<sup>27</sup> United States Marine Corps, "Small Wars Manual" 1940.p 1-17.

<sup>28</sup> A. J. Sherman, "*Viceroy and Indians*," *The New York Times* Book Review, Sunday April 30, 2006, p. 26.

<sup>29</sup> Stephen Biddle, "War Aims and War Termination," an extract from *Defeating Terrorism: Strategic Issue Analyses*, U.S. Army War College Strategic Studies Institute, January 2002, pp.7-12.

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# The State of Iraq: an Update

	AUGUST 1993	AUGUST 2004	AUGUST 2005		AUGUST 2005	AUGUST 2004	AUGUST 2003
Foreign Troops in Iraq (in thousands; U.S./other)	139/22	140/24	139/23	Iraqi G.D.P. Not From Oil (in billions of dollars)	2.0	8.3	10.9
U.S. Troop Fatalities	36	85	90	Iraqi National Debt (in billions of dollars)	114	79	82
U.S. Troops Wounded	181	391	608	Annual Inflation Rate (percent)	36	32	20
Other Foreign Troop Fatalities	7	9	0	Average Electricity Availability (in megawatts; prewar: 4,000)	3,300	4,700	4,000
Iraqi Security Personnel Fatalities	50	150	230	Percentage of Sewage Treated	25	35	50
Iraqi Civilians Killed by War (2005 entry does not include nearly 1,000 rampage victims)	225	550	600	Unemployment Rate (percent)	55	35	33
Foreign Civilians Killed by War	26	31	6	Trained Judges	0	200	400
Estimated Size of Insurgency	3,000	20,000	18,000	Telephone Subscribers (in thousands; prewar: 300)	900	1,460	4,180
Estimated Foreign Jihadists	100	500	900	Independent TV Stations	0	12	29
Attacks on Oil Assets and Personnel	4	21	9	Aid Disbursed (U.S./other foreign; in billions of dollars)	0.1/0	3.5/1	10.3/2.2
Iraqi Security Personnel (in thousands; total/good quality)	37/0	91/0	183/26	Percentage of Iraqis Saying Country Is Headed in the Right Direction	65	51	18
Oil Production (in millions of barrels per day; prewar: 2.9)	1.4	2.1	2.2	Percentage of Iraqis Confident in Government	N.A.	65	55
Availability of Household Fuel (percentage of estimated need)	57	84	94	Expected Sunni Arab Share of Future National Oil Revenue (percent)	20	20	5-20
Iraqi Gross Domestic Product (in billions of dollars; 2002 level: 18.4)	12.1	21.1	25				

THE NEW YORK TIMES **Op-ED** FRIDAY, SEPTEMBER 9, 2005

## Op-Chart

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